

# **PLANNING COMMISSION**

## **ACTION MINUTES**

**TUESDAY, AUGUST 2, 2005**

Chair Parsons called the meeting to order 7:00 p.m. in the Belmont City Council Chambers.

### **1. ROLL CALL**

Present, Commissioners: Parsons, Horton, Frautschi, Wozniak, Gibson, Long

Absent, Commissioners: Dickenson

Present, Staff Principal Planner de Melo (PP), Acting City Attorney Savaree,  
(CA) Zoning Technician Gill (ZT), Recording Secretary Flores (RS)

**2. AGENDA AMENDMENTS: None**

**3. COMMUNITY FORUM (Public Comments): None**

**4. CONSENT CALENDAR: None**

**5. PUBLIC HEARINGS:**

**5A. PUBLIC HEARING – 2503 Casa Bona Avenue**

To consider a Single Family Design Review to construct a new 2,474 square foot single-family residence that is below the zoning district permitted 2,482 square feet for this site.

(Appl. No. 05-0019); APN: 044-241-230; Zoned R-1B (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15303

Applicant: George Belden

Owner: Carol Reitmeier

PP de Melo stated that Zoning Technician Rob Gill would be making a slide presentation for this project.

ZT Gill summarized the Staff Report and was available for questions.

Referring to Page 9 of the staff report, Section G, Tree Protection, C Gibson noted that there is a tree ordinance for certain species and asked if we limit our considerations to protect the trees. PP de Melo stated that there are no protected trees to be removed as part of the construction and that the applicant and property owner need to discuss prior to construction. This is not a City issue. Tree No. 1 is a Coast Live Oak and is not protected.

C Gibson asked if it would be appropriate to attach a condition requiring them to protect the neighbor's tree. PP de Melo agreed, as it is off-site. He reiterated that this is between property owners, and the City should not be involved.

At C Long's request, CA Savaree confirmed that the Commission does not deal with issues concerning trees that are off-site – those are matters between two private owners.

C Frautschi asked about the Open House. Mr. & Mrs. Gusto Venio have concerns about the Monterey Pines along their property and the applicant's property. Their concern is construction excavation; it may weaken the root system and make those trees hazardous. He wants them removed. ZT Gill stated that it is not proposed for this site plan for the trees to be removed.

George Belden introduced himself as the applicant.

C Frautschi asked why the applicant decided to have the garage by the front porch and not built into the house itself. Mr. Belden responded by saying it was a smaller lot and there will be stairs.

Chair Parsons opened the public hearing.

Sajitt Banagy, Read Avenue, had concerns about the 2 windows on the higher floor looking towards the north and towards his property and impairment to the existing view. He is also concerned about the health of the 2 trees on the property line and the construction measures.

Naomi Neavram introduced herself as a licensed Architect representing the adjacent property owners at 2401 Read Avenue. Mr. and Mrs. Popiel have retained her to review the plan and to comment. She commented on poor architectural planning of the house and requests the Commission postpone the decision and suggests they review the property from the neighbor's vicinity.

Kathleen Benwa introduced herself as a Realtor from Cashin Company and was retained by the Popiel to comment on the value and view. She discussed how the dwelling would have a negative impact for the Popiels and the property itself. She is also concerned about the privacy and where the windows will be placed in the bedroom that will be facing down on the Popiel's patio area. She too feels the decision should be postponed and that the applicant should reevaluate his design.

Herm Popiel introduced himself and lives at 2041 Reed Avenue. His concerns are the Monterey Pine trees. He stated that he has resided at this residence for 32 years and indicates he lost a Monterey Pine tree to a bark beetle infestation. The City Arborist suggested he deep root and irrigate monthly, which he stated he does faithfully every month. He would like to speak to Mr. Belden regarding the trees and also asked for a continuation of final approval of the plans. He does not want to lose the Monterey Pine trees.

Jacquelyn Popiel introduced herself and suggested that the Commission visit their home to view the images and also asked for the decision to be postponed.

**MOTION: By Commissioner Long, seconded by Commissioner Frautschi, to close the Public Hearing. Motion passed.**

C Gibson stated that he has visited the Popiel's home. He noted that private and public view issue ordinances. Expressed that the neighbors try and solve this problem amongst themselves, as the Commission has no authority to regulate privacy issues or view issues. He also reminded them that the City has no bearing on the tree issue he is referring to, and stated again that it is between him and the applicant.

C Long had issues about the porch. He stated that the porch is too large. He also remarked that the house is appropriately designed, the set-backs are what they should be and the back yard is larger than the front, which is fine.

C Horton also felt that the size is appropriate and stated that she hopes the applicant will try and save the trees. She could not find reasons to deny the project.

C Wozniak also commented that she hopes the applicant spares the trees as Mr. Popiel has worked really hard on saving them and she also stated that these trees do add value to the property. She added that she felt the house is not properly designed and would like to see a better rendering of the house.

C Frautschi asked, as a Planning Commission, if they would be able to go beyond the Arborists recommendation and ask for mitigation for protection of a non-protected species. PP de Melo stated the ordinance and talked about the protection of trees on private property proposed for the development.

Chair Parsons stated that everything has been discussed except for the finding for B, the overall site and building plan, which achieved an acceptable balance from the following factors. He

questioned why the garage was being put above and not on the lower side. Also felt that the design could be better, perhaps reverse the design and have it looked at once again.

**MOTION: By Commissioner Long, seconded by Commissioner Wozniak, to continue 2303 Casa Bona Avenue until date uncertain and have the applicant submit more complete drawings to assure that Finding B is adhered to.**

**Ayes: Long, Wozniak**

**Noes: Gibson, Frautschi, Horton and Parsons**

**Motion failed 2/4**

**MOTION: By Commissioner Frautschi, seconded by Commissioner Horton, to adopt a Resolution approving a Single Family Design Review for 2303 Casa Bona Avenue, with the removal of the condition for mitigation for tree No. 1 (Appl. 05-0019).**

**Ayes: Frautschi, Horton, Gibson, Wozniak**

**Noes: Parsons, Long**

**Motion passed 4/2**

Chair Parsons noted that this item may be appealed to the City Council within 10 days.

## **5B. PUBLIC HEARING - 2406 Coronet Blvd.**

To consider a single-family design review to construct a 3,391 square foot single-family residence that is below the zoning district permitted, 3,500 square feet for this site.

Appl. No. 03-0111) (Continued from 3/1/05 Planning Commission Hearing)

APN: 044-241-380; Zoned: R-1B (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15303

Applicant: Javier Chavarria

Owners: Curtis and Lynn Wright, Celestino and Manuela Aguiar

PP de Melo reminded the Commission that this project was previously reviewed by the Commission in August 2004 and more recently at the March 5<sup>th</sup> hearing. The Commission had concerns about the project.

- Geotechnical aspects of the project. Suggested Geotechnical consultant be present during this meeting as well as reviewed by a third party Geotechnical and the City's Geotechnical Consultants. Geotechnical recommendations are still valid for this revised project.
- Professional landscape plan, also prepared for the project.
- Floor area was adequate and the Commission agreed but asked that the applicant return to address the window design and exterior color of the dwelling, which had been completed per the attached as well as the floor plan.

Javier Chavarria introduced himself as being with JC Engineering. He discussed the plans and talked about the issues. He agreed this home is bulky and understood that it was an issue with the Commission and the neighbors; they have redesigned the home. He described the redesign:

- Reduced stair tower.
- Removed 2 feet from the height of building.
- Reduced floor area in upper floor.
- Changed the windows and replaced them with smaller windows and add shutters.

He also stated that they hired a landscape engineer to discuss the landscaping around the dwelling, and he would be best to answer question should there be any.

Chair Parsons opened the hearing.

Curtis Wright, owner, stated his concerns with regard to the time it has taken. He feels that everything has been met according to the Commission's suggestions, and felt that some of the neighbors will oppose his building this house on the lot.

David Byers introduced himself as Mr. Wright's attorney, and asked that the Commission render a decision tonight and follow staff recommendations and approve this project.

Adjacent neighbor, Mr. Mendez explained that this project would not block his view. He knows that the hill does slide and is concerned that when the dwelling is built and a slide does happen, this dwelling will slide onto his property. He also asked that if such an incident should happen he wants someone accountable and would like this concern stated on the record.

Zoa Cogan introduced herself as the neighbor living next to the project. She stated that a Public Hearing notice sign was never posted on the property. She is also concerned about possible sliding once the excavation starts and said it may affect her foundation. She too stated that should her foundation move due to excavation, she wants to hold someone responsible.

Joseph Keenan, 2504 Read Avenue and owner of the property at 2505 Read Avenue, which adjoins the backside of this project expressed his concerns about the sliding and stated that he had a conversation with the contractor about the sliding. Mr. Keenan is very concerned about the Oak Trees and Oleander trees and heavy soiled movements if the project continues. He also stated that should something happen to his property, he intends to take legal action with the City as well as neighbors.

**MOTION: By C Frautschi, seconded by C Long, to close the Public Hearing. Motion passed**

C Frautschi asked the City Attorney what liability they would have on the decision made tonight. CA Savaree stated that there is no recourse to any persons on the Commission as they have immunity under the Government Code.

C Frautschi stated the revised design is acceptable. He stated his concerns were geographic concerns and did seek a second opinion from Cotton & Shires. He is satisfied with all of his questions being answered. His other concern was the landscaping and the staircase. He suggested that he would like to see it in a more circuitous route to the front door. He also noted Mr. Mendez's concerns for his Oak tree and Oleander trees on his property line and would like staff to explain the recourse should something happen to those trees. PP de Melo stated it would be a person-to-person issue.

C Frautschi stated he was satisfied with the answers given tonight and stated it is an agreeable project.

C. Wozniak also stated this project is much more acceptable now than previous. She is concerned that the geotech states this can be built but feels there are no guarantees should something happen such as a slide, which she too was concerned about. She asked if there is a bond that can be posted since this is an active geological area. PP de Melo answered that they do not have the authority to do that, the applicant's geotech which will be further retained on this property and there will be further follow ups with all involved. PP de Melo also explained that a site that is vacant, and has vegetation, there will be sliding if there are no walls to hold up the site. The site will be reviewed by all to be assured that the geotech issues are addressed for this project, therefore there is no bond that could legally ask for the assurance that this building is constructed appropriately.

CA Savaree reconfirmed that there will be no liability to the City if something should happen.

C Long stated that this has been a long project and felt that the applicant has been very patient and commended his architect for changing the plans and doing a wonderful job. His personal opinion is that the existing homes that are sliding down the hill be red tagged. He asked why the neighbors opposing this building did not have present with them an expert to discuss each neighbor's foundation and determine if the house being built it will cause more sliding. He also suggested that the applicant change the front entry and add a tree.



C Horton stated that the applicant has come before the commission on three separate occasions and has followed the direction of the Commission. She stated she sees no reason to deny the project.

C Gibson stated that he is thankful that the applicant has done what they asked with the redesign, and is prepared to approve the project.

Chair Parsons was in agreement with the Commission and asked if there was a motion.

**MOTION: By Commissioner Long, seconded by Commissioner Frautschi, adopting the Resolution approving a Variance and Single-Family Design Review at 2406 Coronet Blvd. and encouraged the applicant to work with the City to change the entry façade.**

**Ayes: Long, Frautschi, Gibson, Horton, Wozniak, Parsons**

**Noes: None**

**Motion passed 6/0**

Chair Parsons noted that this item may be appealed to the City Council within 10 days.

#### **5C. PUBLIC HEARING – 2223 Coronet Blvd.**

To consider a Single Family Design Review and Floor Area Exception for a 679 square feet addition to the existing 3,080 square foot single-family residence for a total of 3,759 square feet that is greater than the maximum permitted 3,500 square feet for this site.

PP de Melo summarized the staff report, noting that this project was submitted prior to the City's changeover of the regulations for parking upgrade. This project was reviewed under previous ordinances, which uses the more than 1 bedroom as a basis for requiring a garage to come up to standards. The garage is 17 ½ feet in width by 18 feet in length for an interior clear space. He also noted that the applicant sent out notices to all neighbors and adjacent property owners and asked them to join him at a meeting on February 19, 2005. Carlos stated that 5 out of 6 neighbors were in attendance and gave positive feedback on this project. Carlos stated that two letters were received from other property owners concerned about the stairwell on the property. He also stated that this stairwell would be removed. Staff recommended approval.

C Frautschi asked if the unit had already been built. PP de Melo responded that the 679 square foot unit has been constructed and that the city is working with the City Attorney's office to obtain an application tonight.

C Wozniak asked if the 679 square foot unit was built without permits. PP de Melo responded that it was built without the benefit of permits. The applicant subsequently submitted the project for plan checking and for building permits, but in the zoning analysis a single-family review application as well as floor area exception was needed to permit the space. PP de Melo stated if there is space proposed for development without a permit, it should be treated as if it never existed and referred to Section 24.4.C, which states that secondary units are allowed for legal non-conforming principal buildings only if existing set-backs are conformed to.

C Frautschi asked the applicant to explain how this came about.

Mike Symons introduces himself as the applicant. He explains that three years ago, one of his siblings wanted to reside with him while she attended law school. Responding to further questions from the Commission, he stated he was unaware that a permit needed to be established, he has owned the home for 6 years, and that the room did not exist when the property was purchased.

Chair Parsons opened the public hearing.

Robert Mantinango introduced himself as owners of the adjacent property and stated his concerns about the external stairway. He also noted that in the conditions for approval, there is no mention of the stairway being removed. He asked that it be stated in the conditions that it will be removed. Carlos stated it is in the condition of Plans and the Commission can put in on the plans if they see fit.

Mrs. Mantinango introduced herself and informed the Commission of an encroachment on the lot. She stated that she has contacted an attorney who sent the applicant numerous letters but were returned. She stated the encroachment still exists and stated that the applicant's fence is on her property. She asked that it be dealt with along with the stairs, which also are on her lot. She further mentioned that she and Mr. Symons have come to an agreement to fix these problems but stressed that she does not want to wait another 3 years.

Mr. Symons agreed that there was a letter regarding a possible encroachment. He stated he informed his realtor and made mention to Mr. and Mrs. Mantinango that they could hire a surveyor to look at the property, then stated there was no response to this letter. He also asked about the letters Mrs. Mantinango was referring to, as he has no recollection of seeing any letters from her attorney and would like to view them if she has them.

**MOTION: By Commissioner Frautschi, seconded by Commissioner Gibson, to close public hearing. Motion passed.**

C Long stated that he is uncertain about this project and is not willing to support it.

C Gibson stated that this is considered an existing room and it does not impact the neighborhood due to it being an intensification of use, but also stated he is uncertain where he stands on this issue.

C Frautschi stated that if it was a Single Family Design Review, he would look at it favorably; however, his concern is about parking in the area. He could not support this project.

C Wozniak stated agreed that if it were a single family design review, she would perhaps be for the project, but was also concerned about the parking and felt it would be detrimental to grant an exception.

C. Horton did not have an issue with a secondary unit or the floor area exception, but is concerned that the dwelling has numerous problems.

Chair Parsons stated that he looked at the area and he too was concerned about the parking. He also noted that there was plumbing put in as well, and the house is too irregular and poorly sited on the lot. He also felt it is detrimental to the health and safety of the public. The distance between the two side lots is too narrow for access in case of an emergency.

**MOTION: By Commissioner Frautschi, seconded by Commissioner Long, to deny the floor area exception for this Single Family Design Review for 2223 Coronet Blvd.**

PP de Melo suggested to the Commission that they return with the Findings for No. 1 and No. 2, which address privacy issues, and would like to come back with a Resolution.

**Ayes: Frautschi, Long, Gibson, Horton, Wozniak, Parson**

**Noes: None**

**Motion passed 6/0**

Chair Parson noted that this may be appealed to the City Council within 10 days from the next meeting.

**6. NEW BUSINESS:**

**6A. Review of Exterior Elevations Modifications – Proposed Restaurant - 1400 El Camino Real**

PP de Melo summarized that this was a project brought before the Commission in September 2004 and was approved to build a Floor Area Variance and Design Review to allow a trellis and an ADA access ramp located on the Broadway Avenue frontage. The applicant had concerns about the permanent encroachment permit that would be required for the trellis and ADA structure. They have a revised design for the Broadway Avenue frontage.

C Horton stated that the square footage has changed, it will need to be recorded for exact square footage – approximately 65 sq ft..

C Frautschi asked about parking. PP de Melo stated that there will be no impact on the parking situation.

**7. REPORTS, STUDIES, UPDATES AND COMMENTS:**

The Commission asked for an update on the Indulge Buffet sign. PP de Melo stated the banner can only be displayed for a period of not-to-exceed 30 days and that he will check to determine if the 30 days are over.

**8. PLANNING COMMISSION LIAISON TO CITY COUNCIL MEETING OF TUESDAY, AUGUST 9, 2005**

Liaison: Commissioner Gibson

Alternate Liaison: Commissioner Frautschi

**ADJOURNMENT:**

The meeting adjourned at 9:56 p.m. to a regular meeting on Tuesday, August 16, 2005 at 7:00 p.m. at Belmont City Hall.

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Carlos de Melo, Interim

Planning Commission Secretary

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*in the Community Development Department*

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